IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

WP(C).No. 11261 of 2004(N)
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PETITIONER:
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K.V.MUHAMMED, AGED 65 YEARS,
KADAVIL VALAPPIL HOUSE,
CHANGARAMANGALAM, MALAPPURAM DISTRICT.

BY ADV. SRI.T.KRISHNAN UNNI

RESPONDENTS:
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1. TAHSILDAR PONNANI.

2. REVENUE DIVISIONAL OFFICER, TIRUR.

BY GOVERNMENT PLEADER SRI. K.P. PRADEEP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE ASSESSMENT ORDER ISSUED BY THE FIRST RESPONDENT DATED 18.3.2002

EXT.P2 TRUE COPY OF THE REMAND ORDER OF THE 2ND RESPONDENT DATED 2.9.2002

EXT.P3 TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER DATED 14.8.2003

EXT.P4 TRUE COPY OF THE ORDER OF THE FIRST RESPONDENT DATED 30.9.2003

EXT.P5 TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT DATED 26.2.2004

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

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W.P. C. NO. 11261 OF 2004

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Dated this the 21st day of November, 2007

JUDGMENT

Petitioner is challenging building tax assessment in respect of a hospital building. The short dispute is only with regard to plinth area. However, variation is such that either the claim of the petitioner is totally false or the Tahsildar's measurement is totally scandalous. While petitioner's case is that plinth area is only 800 sq. metres, revised assessment made by the Tahsildar even after one round of appeal before the RDO is 3660 sq. metres. If objection is without any bona fide, petitioner is bound to pay heavy costs. However, if petitioner is harassed by the Tahsildar by making totally baseless assessment, then the Tahsildar should pay costs to the petitioner, that too personally and not from the Government's exchequer. W.P. is accordingly disposed of with the following directions. (1) Petitioner will get the plinth area of the hospital measured by a qualified person and satisfy himself with the actual plinth area. If he was under mistake and measurement by Tahsildar was correct, he will pay the entire balance arrears of tax with interest before the Tahsildar within one month from now. In that event Tahsildar will file a statement in this Court about the compliance by the

petitioner on or before 1.1.2008. (2) If the petitioner finds that the plinth area assessed is absolutely incorrect and the variation is substantial, petitioner will inform the matter to the first respondent within two weeks from now for the first respondent to arrange for measurement of the plinth area by Asst. Exe. Engineer, PWD. If the plinth area measured by the Asst. Exe. Engineer, PWD is at least 3600 sq. metres, the first respondent will rectify the assessment, but along with demand of tax, recover cost of Rs. 15,000/- from the petitioner for putting up a bogus claim of plinth area at below 1000 sq. metres. However, if the plinth area measured by the Asst. Exe. Engineer is below 1000 sq. metres then the Tahsildar who issued Ext.P4 will reassess, recover actual tax and pay cost of Rs. 15,000/- to the petitioner and report compliance to this Court on or before 1.1.2008. Petitioner will also file a statement of compliance in this court. (3) The Asst. Exe. Engineer will treat the request from the Tahsildar for the measurement as part of the direction issued by this Court and he will without any delay measure the plinth area of the hospital in the presence of the petitioner and Tahsildar.

Issue photocopy today itself.

(C.N. RAMACHANDRAN NAIR)
Judge